

CIVIL SERVICE COMMISSION MINUTES

September 18, 2002

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gordon Austin
Barry I. Newman
Sigrid Pate
Mary Gwen Brummitt
Marc Sandstrom
Roy Dixon, Outside Hearing Officer

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
September 18, 2002

1:45 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

Discussion Items
5,6,7,8,10

Continued

Referred

Withdrawn

COMMENTS Motion by Newman to approve all items not held for discussion;
seconded by Pate. Carried.

CLOSED SESSION AGENDA

County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Brummitt: Wendell Prude, S.E.I.U. Local 2028,
on behalf of **Freida Sawyer**, former Detentions Nurse II, Sheriff's
Department, appealing an Order of Termination and Charges from
the Sheriff's Department.

B. **Caloca v. County of San Diego and San Diego County Civil
Service Commission**, Superior Court No. 706089 - Conference with
Ellen Pilsecker, Senior Deputy County Counsel.

REGULAR AGENDA

County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items
unless additional time is requested at the outset and the President of the
Commission approves it.

MINUTES

1. Approval of the Minutes of the special meeting of September 29, 2002.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Newman: Richard L. Pinckard, Esq., on behalf of **Ernest
Stratis**, Deputy Sheriff-Detentions, appealing an Order of Pay Step
Reduction and Charges from the Sheriff's Department.

Confirmed.

3. Commissioner Austin: **David Munshower**, former Stock Clerk, appealing an
Order of Termination and Charges from the Sheriff's Department.

Confirmed.

4. Commissioner Brummitt: Michelle A. Perfili, Esq., on behalf of **Cindy L. Mitchell**, former Human Resources Analyst, appealing a Final Order of Removal and Charges from the Department of Human Resources (DHR). (See Nos. 6, 7, 8 and 11)

Confirmed.

DISCIPLINES

Findings

5. Commissioner Brummitt: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Freida Sawyer**, former Detentions Nurse II, Sheriff's Department, appealing an Order of Termination and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

The matter of this appeal was duly noticed and came on for hearing on August 29, 2002. The Commission appointed Mary Gwen Brummitt to hear the appeal and submit findings, conclusions and recommendations to the Commission. However, at the beginning of the hearing, the parties entered into an agreement for Appellant to resign effective July 2, 2002 and to withdraw her appeal before the Commission. A written resignation and letter of withdrawal both dated August 29, 2002 were furnished to the Hearing Officer who reviewed the Letter of Withdrawal and the Letter of Resignation and determined that the public would be best served if the Commission approved the Withdrawal of Appeal based upon the Letter of Resignation, effective July 2, 2002.

It is therefore recommended that the Withdrawal of Appeal, based upon the Letter of Resignation, dated August 29, 2002, be approved by the Commission and incorporated herein by reference; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Brummitt to approve Findings and Recommendations;
seconded by Pate. Carried.**

DISCRIMINATION

Findings

6. Roy Dixon, Outside Investigating Officer: Michelle A. Perfili, Esq., on behalf of **Cindy L. Mitchell**, former Human Resources Analyst, DHR, alleging age, gender, race, orientation and other non-job related factors discrimination by DHR. (See Nos. 4, 7, 8 & 11)

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on May 15, 2002, the Commission appointed Roy Dixon to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegations of age, gender, race, orientation and other non-job related factors (retaliation) discrimination and that probable cause that a violation of discrimination laws occurred was not established in this matter. It is therefore recommended that this complaint be denied; and that the Commission approve and file this report with a

findings of no probable cause that Complainant has been discriminated against on any basis protected by law; and that the Commission read and file this report.

Motion by Newman to approve Findings and Recommendations; seconded by Brummitt. Carried.

INVESTIGATIONS

Complaints

7. Michelle A. Perfili, Esq., on behalf of **Cindy L. Mitchell**, Human Resources Analyst, DHR, requesting an investigation into alleged improper personnel practices in DHR. (Held in abeyance since the Commission meeting of May 15, 2002.)

RECOMMENDATION: Continue to hold in abeyance pending the outcome of the Rule VII hearing. (See Nos. 4, 6, 8 & 11)

Motion by Newman to accept staff recommendation; seconded by Pate. Carried.

SELECTION PROCESS

Complaints

8. Michelle A. Perfili, Esq., on behalf of **Cindy L. Mitchell**, Human Resources Analyst, DHR, appealing her non-selection for the classification of Senior Human Resources Analyst by DHR. (Held in abeyance since the Commission meeting of May 15, 2002.)

RECOMMENDATION: Continue to hold in abeyance pending the outcome of the Rule VII hearing. (See Nos. 4, 6, 7 & 11)

Motion by Pate to accept staff recommendation; seconded by Newman. Carried.

Findings

9. **Greg Sandifer**, appeal of removal of his name by the Department of Human Resources from the employment list for Correctional Deputy Probation Officer.

RECOMMENDATION: Ratify Item No. 9. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Ratified.

OTHER MATTERS

10. Everett Bobbitt, Esq., on behalf of the **Deputy Sheriffs' Association**, requesting that the Commission hear appeals of reprimands of peace officers from the Sheriff's Department.

RECOMMENDATION: Allow parties to address the Commission.

Rick Pinckard, Esq. on behalf of the DSA, William Songer, Sr. Deputy County Counsel, and Robert Faigin, Esq., representing the Sheriff's Department, presented various arguments, pro and con, regarding the request by DSA that the Commission hear appeals of reprimands of peace officers. The Commission, after entertaining comment from interested parties, appointed two of its members to meet with them to enter into an in depth review of potential advantages and disadvantages

associated with this request. Commission staff calendared report back on this matter for November, 2002, per agreement by all parties.

Staff recommendation approved. Motion by Newman to appoint two members of the Commission to review DSA request; seconded by Pate. Carried. Commissioners Sandstrom and Pate appointed.

Seal Performance Appraisal

11. Michelle A. Perfili, Esq., on behalf of **Cindy L. Mitchell**, Human Resources Analyst, DHR, requesting an investigation and sealing of a Performance Appraisal for the period August 11, 2001 to February 11, 2002. (Held in abeyance since the Commission meeting of May 15, 2002.)

RECOMMENDATION: Deny Request. (See Nos. 4, 6, 7 & 8)

Michelle Perfili, Esq., on behalf of Cindy L. Mitchell, addressed the Commission regarding the sealing of a performance appraisal issued to Ms. Mitchell for the period August 11, 2001 to February 11, 2002. Ms. Perfili alleged that Employee's rights under Civil Service Rule V were violated; she had not received a previous 6-month or a 1-year appraisal, thus alleging that the subject performance appraisal was untimely. Further, Ms. Perfili stated that Employee believes that this performance appraisal was a steppingstone to her termination with the Department of Human Resources.

Carlos Arauz, Director of Human Resources, explained to the Commission that the performance appraisal was appropriately issued.

Motion by Newman to accept staff recommendation; seconded by Pate. Carried.

Extension of Temporary Appointments

12. Health and Human Services Agency

3 Recreational Care Worker Trainees (Nora Agpaoa, Imelda Granada, Maria Ulloa)

13. Department of Probation

1 Probation Aide (Caroline Cunningham)

RECOMMENDATION: Ratify Item Nos. 12 & 13.

Item Nos. 12 & 13 ratified.

14. Public Input.

ADJOURNMENT: 3:45 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE OCTOBER 16, 2002.